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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/773,175 | 01/31/2001 | Mark E. Newbury | 1-21 | 6070 |

30594 7590 09/17/2003

HARNESSE, DICKEY & PIERCE, P.L.C.
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EXAMINER

DANIEL JR, WILLIE J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2686

DATE MAILED: 09/17/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,175

Applicant(s)

NEWBURY ET AL.

Examiner

Willie J. Daniel, Jr.

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

1. The Detailed Description states “the an” on page 8, line 2. The Examiner suggests that “the” be deleted for clarity purposes of the sentence.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. *Claims 1-20* are rejected under 35 U.S.C. 102(b) as being anticipated by Leung et al. (EP 0701382 A1).

Regarding *Claim 1*, Leung et al. discloses a method of communicating in a cellular system claimed as a “hierarchical cellular system”. Leung et al.’s method comprises:

a step for determining a timer value or cell sojourn time as stated in column 1, lines 9-12; and column 3, lines 6-12 presents an equation of how the time is determined and repeatedly computed; and

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a step for using or comparing the timer value or cell sojourn time to hand off the mobile unit or wireless unit as stated in column 3, lines 3-5, 39-45.

Regarding **Claim 2**, Leung et al. discloses a step of starting a timer or monitoring the cell sojourn time of a mobile unit or wireless unit as stated in column 2, lines 23-25;

Fig 3a shows the new cell sojourn time of a wireless unit that was triggered by a hand off which will stop the timer as stated in column 4, lines 42-46 and as shown in Fig. 2.

Regarding **Claim 3**, Leung et al. discloses a step of determining the time a wireless unit is to be handed off from one cell to a second cell of the same layer as stated in column 4, lines 16-20.

Regarding **Claim 4**, Leung et al. discloses a step of using or comparing the amount of time a wireless unit is within a cell as a timer value or threshold as stated in column 4, lines 4-9.

Regarding **Claim 5**, Leung et al. discloses a step to determine the timer value the wireless unit is within a cell as stated in column 2, lines 23-26 and column 3, lines 39-45.

Regarding **Claim 6**, Leung et al. discloses a step of determining the timer value as a function of time that the wireless unit is within a layer as stated in column 2, lines 23-26 and column 3, lines 3-12,39-45.

Regarding **Claim 7**, Leung et al. discloses a step of comparing the timer value to a threshold and handing off to another layer depending on the comparison as stated in column 4, line 12-27 and as shown in Fig. 4.

Regarding **Claim 8**, Leung et al. discloses a step of comparing the timer value to a first threshold and handing off to a layer of smaller cells if the timer value is greater than first threshold as stated column 4, lines 55-57; column 5, lines 2-4; and as shown in Fig. 4.

Regarding **Claim 9**, Leung et al. discloses a step of comparing the timer value to a second threshold and handing off to a layer of larger cells if the timer value is less than the second threshold as stated in column 4, lines 55-57; column 5, lines 2-4; and as shown in Fig. 4

Regarding **Claim 10**, Leung et al. discloses a step of remaining in a current layer if the timer value is less than first threshold and greater than second threshold as stated in column 4, lines 55-58; column 5, lines 1-2,4-7; and as shown in Fig. 4.

Regarding **Claims 11-20**, the claims are rejected for the reasons set forth above in the rejections of claims 1-10. Claims 1-10 serve as the basis for having claims 11-20. The processing circuitry of the claims would be inherent.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

3. **Meyer (US 6,175,735)** discloses a mobile radio communication system (see Figs. 1 and 2) for handing over a call between a base station and a mobile station in dependence on the dwell time of the mobile station in a radio coverage area and/or in dependence on the duration of the call as stated in column 1, lines 48-50; and as shown in Figs. 3, 4, and 5.

4. Any inquiry concerning this communication or earlier communications from the examiner

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should be directed to Willie J. Daniel, Jr. whose telephone number is (703) 305-8636. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-5424.

WJD,Jr.
September 5, 2003



NGUYEN T. VO
PRIMARY EXAMINER